

ARIZONA STATE VETERINARY MEDICAL EXAMINING BOARD
1740 W. ADAMS ST., SUITE 4600, PHOENIX, ARIZONA 85007
PHONE (602) 364-1PET (1738) FAX (602) 364-1039
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Received
3/1/24

COMPLAINT INVESTIGATION FORM

If there is an issue with more than one veterinarian please file a separate Complaint Investigation Form for each veterinarian

PLEASE PRINT OR TYPE

FOR OFFICE USE ONLY

Date Received: March 1, 2024 Case Number: 21-98

A. THIS COMPLAINT IS FILED AGAINST THE FOLLOWING:

Name of Veterinarian/CVT: Dr. Dino Herrera, DVM
Premise Name: bluepearl Specialty & Emergency Hospital
Premise Address: 9875 West Peoria Ave
City: Peoria State: AZ Zip Code: 85345
Telephone: (602) 974-1520

B. INFORMATION REGARDING THE INDIVIDUAL FILING COMPLAINT*:

Name: Debora Braun & Martell Gangler
Address: [REDACTED]
City: [REDACTED] State: [REDACTED] Zip Code: [REDACTED]
Home Telephone: [REDACTED] mg Cell Telephone: [REDACTED] Q.B.

*STATE LAW REQUIRES WE HAVE TO DISCLOSE YOUR NAME UNLESS WE CAN SHOW THAT DISCLOSURE WILL RESULT IN SUBSTANTIAL HARM TO YOU, SOMEONE ELSE OR THE PUBLIC PER A.R.S. § 41-1010. IF YOU HAVE REASON TO BELIEVE THAT SUBSTANTIAL HARM WILL RESULT IN DISCLOSURE OF YOUR NAME PLEASE PROVIDE COPIES OF RESTRAINING ORDERS OR OTHER DOCUMENTATION.

C. PATIENT INFORMATION (1):

Name: Tipsy Gangler
Breed/Species: Border Collie/Australian Cattle Mix
Age: 9 months Sex: Male Color: Black

PATIENT INFORMATION (2):

Name: _____
Breed/Species: _____
Age: _____ Sex: _____ Color: _____

D. VETERINARIANS WHO HAVE PROVIDED CARE TO THIS PET FOR THIS ISSUE:

Please provide the name, address and phone number for each veterinarian.

Dr. Krista Zeien - Banfield Hospital - 623-556-5015
Dr. Dino Herrera - bluepearl Specialty & Emergency Hospital - 623-9741520
Dr. Simpson - bluepearl Specialty & Emergency Hospital - 623-974-1520

E. WITNESS INFORMATION:

Please provide the name, address and phone number of each witness that has direct knowledge regarding this case.

Debora Braun - [REDACTED] & Martell (Marty) Gangler [REDACTED]
[REDACTED]

Attestation of Person Requesting Investigation

By signing this form, I declare that the information contained herein is true and accurate to the best of my knowledge. Further, I authorize the release of any and all medical records or information necessary to complete the investigation of this case.

Signature: [Signature]

Date: 2-27-2021

F. ALLEGATIONS and/or CONCERNS:

Please provide all information that you feel is relevant to the complaint. This portion must be either typewritten or clearly printed in ink.

See attached

TIPSY

Tuesday 2/09/2021: Martell (Marty) Gangler and I "had" a nine-month-old puppy named Topsy. Starting Friday, 2/5/21 Topsy was not feeling well; not eating or drinking, therefore not peeing or pooping. We called Pet Smart in Surprise AZ. where Topsy's Vet is located (Banfield Pet Hospital). We explained to Jennifer (one of the Managers) Topsy's symptoms and wanted him to get in ASAP. We were told the first available appointment would be Monday, 2/15. We told them we were very concerned about Topsy's health and did not want to wait 6 days for him to be seen. Jennifer recommended we take Topsy to bluepearl Specialty & Emergency Hospital in Peoria AZ. Marty took Topsy there and spoke to Dr. Herrera and told him Topsy's symptoms and that he could have eaten a poisonous plant in our yard. The Dr. ordered tests to be done and 4 hours later he was released to Marty at 11:34 AM after paying \$545.13. Dr. Herrera prescribed the medication Metronidazole to take every 12 hours and recommended house rest and a bland diet of white rice and chicken breast. The Dr. also told Marty Topsy was dehydrated so he injected some fluid under his skin and we might see a bump on him later where the injection was made. We examined Topsy later in the day and could not find a bump. We were later told by an acquaintance that has had sick dogs that the Doctor should have kept Topsy overnight and given him an IV of fluids. We followed the Doctor's instructions and were able to get Topsy to take a couple bites of food and 2 of the pills over the next 24 hours.

Wednesday 02/10/2021: Topsy appeared worse. He was lethargic, would not move from his bed and was making gasping sounds like he was having trouble breathing and had to open his mouth to breathe. We called bluepearl and informed them Topsy was worse. They informed us all the tests done on Topsy were negative. They suggested we bring him back for more tests. We arrived at bluepearl at 7:30 PM. We called into the hospital and told them we were here. A Triage Tech., Donald, came out to talk to us and we described Topsy's symptoms that had become worse since he was seen yesterday. Donald went back in the Hospital and at 8:00 PM he came back out and took Topsy into the hospital (we could not go in due to COVID restrictions). Over the next couple hours Donald came out a couple times and told us Topsy was resting and doing well. When asked when he would be seen, Donald told us that there were pets with more serious conditions than Topsy so he would not be seen until after these pets. At 10:57 PM we called into the hospital to find out the status. We were told it would be another couple hours before Topsy would be seen. We made the decision at that time that Marty would take me home, as I had to work the next day, and Marty would return to the hospital as they told us someone needed to be there to talk to the Dr. Marty arrived back to the hospital at 11:30 PM. At 12:32 AM Dr. Chris Simpson called Marty and asked "what's going on with Topsy?" as he was going to look at him now. Marty explained everything to him and how he had gotten worse since we were here yesterday. Dr. Simpson said he was going to take a look at Topsy and would call Marty back to tell him what tests he would recommend and how much the tests would cost. At 12:45 AM Dr. Simpson called Marty back and said when they took Topsy out of the bin he collapsed and went into Cardiac arrest and they could not revive him, so Topsy was dead. Dr. Simpson came outside the front door and Marty went up to him very upset (understandably) and was yelling at him and the staff that stood inside the door, trying to understand why it took 5 hours to see Topsy and now he was dead. Marty then came home where we cried and mourned for hours in disbelief that our beloved puppy was dead.

Thursday 2/11/2021: We called bluepearl and spoke to Astin Deem, Practice Manager at the hospital. We asked her who decides what pet is seen over another? We pointed out that on the back of the Topsy

medical report we received 2/09 it indicates that Pets who have difficulty breathing and are unable to urinate are at a Level 1 Status-Critical. We wanted to know why Topsy was not seen for 5 hours. She told us that there were other factors that are considered, including the pet's vitals. She explained that a team of staff including the Doctor on staff make the decision who is to be seen next. She explained that all pets are seen and have their vitals taken every hour. We requested that Topsy's medical records, including who saw him and what Topsy's vitals were every hour he was there, be sent via email (provided her my email address). As Dr, Simpson recorded cause of death as unknown, Astin recommended a Necropsy be done at Midwestern University or at another place of our choice. She explained that she had been called in the middle of the night and was told of Topsy's passing. She instructed the staff to put his body in the refrigerator, not the freezer as she anticipated a Necropsy would be needed. She suggested we call other Vets and see where they sent their pets for a Necropsy but told us to call her by noon Friday and let her know where to send his body for the Necropsy. Needless to say we were very upset when talking to Astin. We threatened to get a lawyer. She asked that we hold off until she could do an internal investigation as "I am your advocate", including talking to the Doctors and she would get the Medical Director involved as she personally had no medical background. She did say she may not be able to reach Dr. Herrera as she was told he was on vacation. She said she would get back to us on Monday 2/15/2021.

Friday, 2/12/2021: Marty called three Veterinarians and they all used Midwestern University. We called Astin back at 12 noon and told her to send Topsy to Midwestern. She said she has a former staff that goes down where the University is located and offered to transport Topsy there. At 12:56 PM Marty received a text from Astin and told him Topsy was sent to Midwestern.

I called Banfield Pet Hospital at Pet Smart and asked to speak to Jennifer but she was not in so I spoke to Rina, another Manager. I explained what happened to Topsy at bluepearl. She was very upset to hear of our experience with them and at the loss of our beloved Topsy, thus canceling the appointment we had for Topsy on Monday. I asked her if she had ever read the negative reviews from customers and staff on bluepearl's website? She said she had not. I told her she should because after reading them they should never refer another pet to bluepearl. She said she would pass this information along to Jennifer and others. Rina informed me they have other Emergency Hospitals they refer customers to but usually refer customers to the closest Emergency Hospital from their home. I told her we would have gladly driven further to a reputable Emergency Hospital but we trusted them to refer us to a reputable/safe Emergency Hospital that would take care of Topsy.

Monday, 2/15/2021: When we had not heard back from Astin, we called her at 4:00 PM. Astin denied having said she would call us today. She said there is nothing she can do until the Necropsy results are back and that could take up to 30 days. She said Dr. Herrera would not be back until next week. I again asked that Topsy's medical records be sent and provided her my email address again. She denied having ever received my email address. When asked how she was going to send me Topsy's medical records that I requested, she said I did not specify how to send them.

Wednesday 2/17/2021: I called bluepearl and spoke to the receptionist and explained that I had still not received Topsy's medical records that I have requested from Astin and gave her my email address.

Thursday 2/18/2021: I received via email Topsy's Discharge Orders from 2/09, which we already had, and the discharge report from 2/10. I did not receive the hourly vitals reports I had requested. I replied to the email requesting these records again.

Saturday 2/20/2021: 11:09 AM I called bluepearl and asked to speak to the Medical Director. I was informed she was not located at that site but I could speak to Astin. I asked to speak to Astin's Supervisor and was told none there was no one there above Astin, so I would have to call Corporate. I asked her for Corporate's phone number and she said she did not have it. I explained I have spoken to Astin several times and she has not sent what I requested and again explained what I wanted sent to me. She said she did not have access to those records but would speak to someone. I said I wanted the reports emailed to me today.

Recorded by Debora Braun

Arizona State Veterinary Medical Examining Board

Reference number 21-98

Subject:

"Topsy" Neutered Male Cattle Dog 9 months

Owner: Marty Gangler.

Patient was presented to me the morning of 2/9/2021 around 9:50 am (BPVP-Peoria) for not eating or drinking normally for 1-2 days and vomiting during that time. I initially saw Topsy in passing as he was being led into the clinic by the triage technician. He appeared BAR and was wagging his tail.

I went out to speak with Mr. Gangler regarding Topsy's medical history. Mr Gangler mentioned that Topsy had not vomited on the morning of presentation. He did not specifically tell me that Topsy had been vomiting. I was made aware of the history of vomiting and diarrhea when I reviewed the Patient Triage Form. This form is filled out by the triage technician when they have initial contact with owners. According to my communication with the owner, Topsy was a well vaccinated dog, there was no known exposure to chemicals, toxins or other. Owner stated pet likes to get into all kinds of things. When I asked if there was anything in particular that Topsy could have gotten into, the owner was not able to say whether Topsy had gotten into any plant or other toxic substance. When I asked about whether there were any other concerns regarding Topsy, Mr Gangler stated that he had no other concerns regarding Topsy at the time of the visit.

I went back into the clinic and performed an exam on Topsy. Topsy was bright, alert and responsive to handling. He seemed a little nervous inside the hospital, I noted that he would crouch and lower his head when other dogs in the clinic were barking or walked nearby. The initial physical exam revealed watery diarrhea on the fur of his pelvic limbs and tail, his abdomen was soft/not painful, his vitals and the rest of exam were within normal limits. His respiratory rate was intermittently elevated, I suspected it was due to being in an unfamiliar environment, as he did not have any signs of respiratory distress. The mentioned tachypnea in medical record was intermittent. There was no abdominal or increased effort noticed and his lung fields were clear on auscultation.

During initial exam I noticed a small amount of dry matter on ventral aspect of left nostril (mud? food? other). I went outside and asked Mr Gangler if he knew what that was. He responded that that was not the reason he was there that morning and he seemed to not want to discuss it further. I asked if he noticed any sneezing, coughing or nasal discharge with Topsy prior to today. Mr Gangler answered no to that question. Mr Gangler then said that he was not concerned about that finding and that he suspected Topsy's nose had gotten dirty when he was chewing on a bone recently.

Sunday, March 7, 2021

During the conversation about the dried debris at the nostril opening, I discussed the other physical exam findings with Mr Gangler. Mr Gangler approved a fecal test to an outside lab as well as an in house 4dx test. We discussed possible abdominal radiographs, but did not pursue due to stable vitals, non painful abdomen and history of no vomiting since the day prior to presentation. We discussed symptomatic treatment for gastrointestinal upset. I recommended subcutaneous fluids to prevent dehydration, a bland diet for couple of days, anti nausea medication (cerenia), antacid (pantoprazole) and metronidazole. It was recommended to follow up with Topsy's pDVM in a few days, sooner if Topsy was not getting better or was declining.

This was the extent of my involvement in this case. I was not present when Topsy unexpectedly collapsed.

Best regards,

Dino Herrera, DVM

Az License # 3879



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INVESTIGATIVE COMMITTEE REPORT

TO: Arizona State Veterinary Medical Examining Board

FROM: AM Investigative Committee: Robert Kritsberg, DVM - Chair
Christina Tran, DVM
Carolyn Ratajack
Jarrod Butler, DVM
Steven Seiler

STAFF PRESENT: Tracy A. Riendeau, CVT - Investigations
Marc Harris, Assistant Attorney General

RE: Case: 21-98

Complainant(s): Debra Braun/Martell Gangler

Respondent(s): Dino Herrera-Zaragoza, DVM (License: 3879)

SUMMARY:

Complaint Received at Board Office: 3/1/21

Committee Discussion: 8/3/21

Board IIR: 9/15/21

APPLICABLE STATUTES AND RULES:

Laws as Amended August 2018

(Lime Green); Rules as Revised September 2013 (Yellow).

On February 9, 2021, "Topsy," a 9-month-old male Cattle dog mix was presented to Respondent for not eating or drinking, and passing diarrhea for 2 days. Diagnostics were performed and symptomatic treatment for gastrointestinal upset was recommended; follow up with primary care veterinarian was also recommended.

The following evening, the dog was presented to Respondent's associate due to declining condition. Due to the dog's temperament, he was muzzled for the exam. While the findings were discussed with Complainant, the dog collapsed. CPR efforts were initiated but were not successful therefore they were discontinued.

A necropsy was performed and it was suspected that the dog aspirated.

Complainants were noticed and appeared.

Respondent was noticed and appeared with counsel, David Stoll.

The Committee reviewed medical records, testimony, and other documentation as described below:

- Complainant(s) narrative: *Debra Braun/Martell Gangler*
- Respondent(s) narrative/medical record: *Dino Herrera, DVM*
- Consulting veterinarian(s) narrative/medical records: *Chris Simpson, DVM*

PROPOSED 'FINDINGS of FACT':

1. On February 9, 2021, the dog was presented to Respondent for not eating or drinking and passing diarrhea for two days. It was also reported on the intake form that the dog had vomited food a few times and chews on things. Upon exam, the dog had a weight = 17.2kg, a temperature = 101.2 degrees, a pulse rate = 140bpm, and a respiration rate = 50rpm. Respondent noted mucoid diarrhea on the dog's tail and caudal aspect of his pelvic limbs and dry material partially covering left nostril. Complainant was suspected the dry material on the dog's nose was food particles from chewing a bone.
2. According to Complainants, they reported that the dog could have eaten a poisonous plant in the yard. However, Respondent stated in his narrative that in his communication with Complainants, the dog was well vaccinated and there was no known exposure to chemicals, toxins, or other. Respondent was advised that like all pets, the dog liked to get into all kinds of things but was not able to say whether the dog had gotten into any plant of other toxic substance. Complainant approved a fecal test and a 4Dx test. Abdominal radiographs were discussed but not pursued due to the dog's stable vitals, non-painful abdomen, and no history of vomiting since the day prior to presentation.
3. Respondent's assessment was possible dietary indiscretion, possible bacterial, parasitic, toxin ingestion, dietary change, other. 4Dx snap test was negative. The dog was administered, and prescribed, the following and discharge:
 - a. Cerenia 17mg IV;
 - b. Pantoprazole 17mg IV;
 - c. Lactated Ringer's Solution 350mLs SQ; and
 - d. Metronidazole 250mg, 14 tablets – give one tablet orally every 12 hours.
4. It was recommended to follow up with the primary care veterinarian if no improvement, or return to the emergency facility.
5. On February 10, 2021, staff left a voicemail with Complainants that there were no ova or parasites seen on the fecal test.
6. Later that evening, the dog was presented to Respondent's associate, Dr. Simpson, due to no improvement and getting worse. Complainants reported that the dog ate a little chicken and rice, was lethargic, and was breathing funny – as if choking on something. Complainant further relayed that the dog vomited one or two times, chews up a lot of things, and they have oleander in the yard.
7. Dr. Simpson stated that on entry, the dog appeared to be walking slowly, but was not in respiratory distress. The dog was aggressive toward staff, actively lunging and trying to bite. Dr. Simpson spoke with Complainants then performed an exam on the dog; the dog was muzzled for the exam. Dr. Simpson stated although the dog was dehydrated and lethargic, there were no abnormalities in the respiratory system or within the abdomen. He called Complainants back

with his findings and recommended blood work and radiographs. While Dr. Simpson was making a treatment plan, the dog collapsed and began agonal breathing. The muzzle was removed and CPR was started. Efforts were unsuccessful and Complainants agreed to cease CPR; the dog passed away.

8. At the time of intubation, there was no food in the in the pharynx, and they did not see food/fluid in the endotracheal tube during CPR or upon removal of the tube at completion of CPR. Dr. Simpson was suspicious of aspiration. Complainants were very upset with the dog's passing and a necropsy was performed.

9. Necropsy revealed the likely cause of the dog's cardiopulmonary arrest was acute aspiration pneumonia.

10. Complainants expressed concerns that Respondent did not keep the dog overnight for IV fluids. When the dog was presented the following evening to Respondent's associate, Complainants had to wait a prolonged period of time and felt the dog should have been seen sooner due to the possible breathing issues. They were also concerned that they did not receive records showing the dog's vitals were taken every hour prior to arrest as they were advised.

COMMITTEE DISCUSSION:

The Committee concluded after reviewing the case file materials and obtaining testimony they did not find a violation with respect to the Respondent's care and treatment of the dog.

However, the Committee did express concerns with hospital policies and procedures with respect to inconsistent medical records and continuous muzzling of the dog. The Committee recommended the Board open an investigation regarding the responsible veterinarian for the premises – Jared Brethouwer, DVM and the treating veterinarian the evening the dog died – Chris Simpson, DVM.

COMMITTEE'S PROPOSED CONCLUSIONS of LAW:

The Committee concluded that no violations of the Veterinary Practice Act occurred.

COMMITTEE'S RECOMMENDED DISPOSITION:

Motion: It was moved and seconded the Board:

Dismiss this issue with no violation.

Vote: The motion was approved with a vote of 5 to 0.

The information contained in this report was obtained from the case file, which includes the complaint, the respondent's response, any consulting veterinarian or witness input, and any

other sources used to gather information for the investigation.

TR

Tracy A. Riendeau, CVT
Investigative Division